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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,982	04/08/2004	Michael D. Cichetti SR.	LPI-126US1	9047

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EXAMINER
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MOHANDESI, IRAJ A

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/820,982	<b>Applicant(s)</b> CICHETTI, MICHAEL D.	
	<b>Examiner</b> Iraj A Mohandesi	<b>Art Unit</b> 2834	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-46 is/are pending in the application.
- 4a) Of the above claim(s) 40-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-39, 45 and 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/08/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 24-39, and 45-46 drawn to an electric motor with cooling, and housing , classified in class 310, subclass 52.
- II. Claims, 40-43 drawn to fan motor, classified in class 310, subclass 58.
- III. Claim 44, drawn to Method, classified in class 29, subclass 569.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility.

See MPEP § 806.05(d).

3. Inventions I,II and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Applicant Representative Mr. Jacques L. Etkowicz Reg. No. 41,738 on August ,30,04 a provisional election was made without traverse to prosecute the invention of I, claims 24-39 and 45 and 46. Affirmation of this election must be made by applicant in replying to this Office action.

Claims 40-44 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Information Disclosure Statement***

7. The information disclosure statement (IDS) submitted on 04/08/2004.

The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 24-30,32,33,35-39,45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by **Butler US patent 3,873,862**.

Regarding claims 24,37,38,45 and 46 **Butler'862** discloses a rotary electric machine comprising; a first housing having (92) at least one opening (162) disposed on a surface of the first housing (see Fig.2) a first wall defining a first interior space( inside of 92),

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and a second housing ( 100) having at least one opening (164, Fig.2,7) disposed on a surface of the second housing and a second wall defining a second interior space ( inside of 100) , and a stator ( 32) having a inherently plurality of laminations (see Fig. 2), a first portion of windings ( 34 left) and a second portion of windings (34 right ), the plurality of laminations disposed substantially within at least one of the first interior space and the second interior space (see Fig.2), wherein air flows into the at least one opening in the first housing (162),over the first portion of windings (left 34), substantially all of an exterior portion of the plurality of stator laminations, and the second portion of windings (34 right), and out the at least one opening in the second housing (164, Fig.2) ,a mating surface (100, Fig.2).

Regarding claims 25-30,32,33,35,36,39 **Butler'862** discloses a rotary electric machine comprising; a motor cover substantially enclosing the first and second motor housings (110,114) therein, the motor cover including a first cover coupled to the second motor housing (92 and 110,114) the first cover having at least one opening in a surface thereof (160), the at least one opening adjacent and in fluid communication with the at least one opening in the second motor housing (162) , and a second cover coupled to the first cover and substantially surrounding the first and second motor housings (112), the second cover having at least one opening in a surface (166) thereof, the at least one opening adjacent and in fluid communication with the at least one opening in the first motor housing 164) the first and second covers are inherently formed from at least one of a metal and a polymer ( insulating see column 4,line 42) the second cover is coupled to a portion of the first motor housing (100 coupled to 112 ),the stator is

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substantially round (see Fig.2. 33, an end portion of the stator is coupled to at least one of the first and second motor housings (see Fig.2) a rotor (34) at least partially disposed adjacent the stator, a shaft (36) coupled to the rotor and extending through the second motor housing such that an end portion of the shaft is positioned external the second motor housing (see Fig.2) and a fan blade (158) coupled to the end portion of the shaft and adjacent the at least one outlet opening, the housing 92 is die cast metal (column 4 line 29).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 31 and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over **Butler,862** and in view of **Chen Us patent 6.,439,862.**

**Butler,862** teaches all limitation of claimed invention except for a square stator shape and opening in the first motor housing and the at least one opening in the second motor housing are substantially parallel to one another.

**Chen'862** discloses an improved fan motor having for a square stator shape (see Fig 7) and opening in the first motor housing and the at least one opening in the second motor housing are substantially parallel to one another (see Fig.1 and 3) for the purpose of press fitting of the stator and better fluid circulation.

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11. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine **Butler,862** motor with a square stator shape having opening in the first motor housing and the at least one opening in the second motor housing which are parallel to one another as taught by **Chen'862**.

for the purpose of mentioned above.

### ***Communication***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Iraj A Mohandesi whose telephone number is 571-272-2028. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IM September 1, 2004



DANG LE  
PRIMARY EXAMINER